

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUSANNA MIRKIN, Individually and on
Behalf of All Others Similarly Situated

Plaintiff,

v.

XOOM ENERGY, LLC and XOOM
ENERGY NEW YORK, LLC,

Defendants.

Case No.: 18 Civ. 2949 (ARR) (JAM)

**DECLARATION OF J. BURKETT MCINTURFF IN OPPOSITION TO
DEFENDANTS' MOTIONS *IN LIMINE***

J. Burkett McInturff, an attorney duly admitted to practice before the Eastern District of New York, declares the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. My firm, Wittels McInturff Palikovic, is Class Counsel for Plaintiff Susanna Mirkin and the Class. Based on my active participation in all material aspects of the prosecution of this class action against Defendants XOOM Energy, LLC and XOOM Energy New York, LLC (together, "Defendants" or "XOOM"), I have personal knowledge of the matters set forth herein.

2. I make this Declaration in Opposition to Defendants' Motions *in Limine* and to authenticate the attached exhibits referenced in the accompanying memorandum of law.

I. Authenticating Documents

3. Attached hereto as **Exhibit A** is a true and correct copy of excerpts from the deposition of Andrew Coppola, XOOM's former Senior Vice President of Energy Supply and Pricing, dated May 11, 2022, pp. 1, 200–01, 288.

4. Attached hereto as **Exhibit B** is a true and correct copy of excerpts from the deposition of XOOM's former Compliance Officer Patricia Kulesa, dated June 29, 2022, pp. 1, 90, 100, 137–38, 179–80, 193.

5. Attached hereto as **Exhibit C** is a true and correct copy of excerpts from the deposition of Plaintiff's former expert Derya Eryilmaz, Ph.D., dated November 15, 2022, pp. 1, 12, 102.

6. Attached hereto as **Exhibit D** is a true and correct copy of excerpts from the deposition of Plaintiff's expert Seabron Adamson, dated November 8, 2022, pp. 1, 11, 37, 141.

7. Attached hereto as **Exhibit E** is a true and correct copy of excerpts from the deposition of Defendants' expert David C. Coleman, dated November 16, 2022, pp. 1, 27–29, 111.

Dated: New York, New York
June 10, 2024

Respectfully submitted,

/s/ J. Burkett McInturff
J. Burkett McInturff

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2024, the foregoing was served via email on all counsel of record.

By: /s/ J. Burkett McInturff
J. Burkett McInturff